

FILED

PRISONER'S CIVIL RIGHTS COMPLAINT (Rev. 05/2015)

IN THE UNITED STATES DISTRICT COURT  
FOR THE Western DISTRICT OF TEXAS  
San Antonio DIVISION

DEC 20 2021

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
BY [Signature]  
DEPUTY CLERK

Herrera Francisco TDCJ #2151663  
Plaintiff's Name and ID Number

Dal Hart Unit  
Place of Confinement

SA 21 CA 1266 XR

CASE NO. \_\_\_\_\_  
(Clerk will assign the number)

v.

Estate of Texas, Bexar County District Clerks  
Defendant's Name and Address

Bexar County District Attorney  
Defendant's Name and Address

101 W. Nueva San Antonio tx. 78205  
Defendant's Name and Address  
(DO NOT USE "ET AL.")

---

INSTRUCTIONS - READ CAREFULLY

---

NOTICE:

Your complaint is subject to dismissal unless it conforms to these instructions and this form.

1. To start an action you must file an original and one copy of your complaint with the court. You should keep a copy of the complaint for your own records.
2. Your complaint must be legibly handwritten, in ink, or typewritten. You, the plaintiff, must sign and declare under penalty of perjury that the facts are correct. If you need additional space, **DO NOT USE THE REVERSE SIDE OR BACKSIDE OF ANY PAGE.** ATTACH AN ADDITIONAL BLANK PAGE AND WRITE ON IT.
3. You must file a separate complaint for each claim you have unless the various claims are all related to the same incident or issue or are all against the same defendant, Rule 18, Federal Rules of Civil Procedure. Make a short and plain statement of your claim, Rule 8, Federal Rules of Civil Procedure.
4. When these forms are completed, mail the original and one copy to the clerk of the United States district court for the appropriate district of Texas in the division where one or more named defendants are located, or where the incident giving rise to your claim for relief occurred. If you are confined in the Texas Department of Criminal Justice, Correctional Institutions Division (TDCJ-CID), the list labeled as "VENUE LIST" is posted in your unit law library. It is a list of the Texas prison units indicating the appropriate district court, the division and an address list of the divisional clerks.

**FILING FEE AND *IN FORMA PAUPERIS* (IFP)**

1. In order for your complaint to be filed, it must be accompanied by the statutory filing fee of \$350.00 plus an administrative fee of \$50.00 for a total fee of **\$400.00**.
2. If you do not have the necessary funds to pay the fee in full at this time, you may request permission to proceed *in forma pauperis*. In this event you must complete the application to proceed *in forma pauperis*, setting forth information to establish your inability to prepay the fees and costs or give security therefor. You must also include a current six-month history of your inmate trust account. If you are an inmate in TDCJ-CID, you can acquire the application to proceed *in forma pauperis* and the certificate of inmate trust account, also known as *in forma pauperis* data sheet, from the law library at you prison unit.
3. The Prison Litigation Reform Act of 1995 (PLRA) provides "... if a prisoner brings a civil action or files an appeal *in forma pauperis*, the prisoner shall be required to pay the full amount of a filing fee." See 28 U.S.C. § 1915. Thus, the court is required to assess and, when funds exist, collect, the entire filing fee or a initial partial filing fee and monthly installments until the entire amount of the filing fee has been paid by the prisoner. If you submit the application to proceed *in forma pauperis*, the court will apply 28 U.S.C. § 1915 and, if appropriate, assess and collect the entire filing fee or an initial partial filing fee, then monthly installments from you inmate trust account, until the entire \$350.00 statutory filing fee has been paid. (The \$50.00 administrative fee does not apply to cases proceeding *in forma pauperis*.)
4. If you intend to seek *in forma pauperis* status, do not send your complaint without an application to proceed *in forma pauperis* and the certificate of inmate trust account. Complete all essential paperwork before submitting it to the court.

**CHANGE OF ADDRESS**

It is your responsibility to inform the court of any change of address and its effective date. Such notice should be marked "NOTICE TO THE COURT OF CHANGE OF ADDRESS" and shall not include any motion for any other relief. Failure to file a NOTICE OF THE COURT OF CHANGE OF ADDRESS may result in the dismissal of your complaint pursuant to Rule 41(b), Federal Rules of Civil Procedure.

**I. PREVIOUS LAWSUITS:**

A. Have you filed *any* other lawsuit in state or federal court relating to your imprisonment? ☒ YES ☐ NO

B. If your answer to "A" is "yes", describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, giving the same information.)

1. Approximate date of filing lawsuit: May 2017
2. Parties to previous lawsuit:  
 Plaintiff(s) Herrera Francisco SID#506355  
 Defendant(s) Bexar County Adult Detention Center
3. Court: (If federal, name the district; if state, name the county.) United States District Courts
4. Cause number: 5:17 CV-00460
5. Name of judge to whom case was assigned: Javier Rodriguez
6. Disposition: (Was the case dismissed, appealed, still pending?) Dismissed with Not prejudice
7. Approximate date of disposition: May 31 on 2017

II. PLACE OF PRESENT CONFINEMENT: Dal Hart Unit

III. EXHAUSTION OF GRIEVANCE PROCEDURES:

Have you exhausted all steps of the institutional grievance procedure? ☒ YES ☐ NO  
 Attach a copy of your final step of the grievance procedure with the response supplied by the institution.

IV. PARTIES TO THIS SUIT:

A. Name and address of plaintiff: Herrera Francisco T.D.C.J. #2151663

11950 FM998 Dal Hart Texas 79022

Can you send me My papers Back with 2 copies Please?

B. Full name of each defendant, his official position, his place of employment, and his full mailing address.

Defendant #1: Judge Mary Roman from Bexar County District Clerks  
101 W. Nueva Suite 217 San Antonio Texas 78205

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

the Record showing Violation my Motion to withdraw Plea on timely Request

Defendant #2: Prosecutor Clarissa E. Pratt Ass. of Bexar County District Attorney  
State bar #24068964 101 W. Nueva 4th floor San Antonio tx. 78205

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Abuse of Discretion Dismissed Cause 2016 CR6195 Re Indictment Same Day Cause No. 2017 CR3850

Defendant #3: Court Appointment Gerardo C. Flores State Bar No. 24029548  
3123 N.W. Loop 410 San Antonio tx 78230 PH(210) 4174190 Fax (210) 4174191

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

failure to investigate, Never Signed Motions favorable to Defend, working in Conspiracy, Abandon,

Defendant #4: State Counsel for Offenders Appellate Attorney John C. Moncure  
P.O. Box 4005 Huntsville tx. 77342 PH#(936) 437-5203

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

I Request Several times for Substantial Assistance and Never Recib help

Defendant #5: Texas Department Criminal Justice Dal Hart Unit, 11950 FM  
998 Dal Hart tx 79022 to Law Library Tammi Mustgrave

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Deprived the Copies from my Record And New York Cases Laws

## V. STATEMENT OF CLAIM:

State here in a short and plain statement the facts of your case, that is, what happened, where did it happen, when did it happen, and who was involved. Describe how each defendant is involved. You need not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach extra pages if necessary, but remember the complaint must be stated briefly and concisely. IF YOU VIOLATE THIS RULE, THE COURT MAY STRIKE YOUR COMPLAINT.

My Complaint is for Discrimination Because I Request Several Times to the District Clerks for my transcripts bearing on August 4 on 2017 when My Attorney George C. Flores Abandone me and the judge Mary Berman Retained Him and Altered my Sentenced from 11 years to 16 years the Record Showing the prior Conviction was obtained at a time when Francisco Herrera was Indigent and without Counsel, I call to 911 for police and Ambulance I Not Guilty my Attorney Never Established in Self Defense and I Request to state bar of Texas for help and my Attorney Give me Incomplete Record; the State Make Multiplicitous Indictment in subsequent prosecution Dismissed Cause 2016CR6195 for witness out the Country and Re Indictment some Day Cause No. 2017CR3850 Deprived my liberty in Violation of my Constitutional Rights.

## VI. RELIEF:

State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

I want to go to Appeal Because I Have a lot Evidence favorable to me and I want to Disciplinary Actions to the officials Jail or Compensation for my time in prison

## VII. GENERAL BACKGROUND INFORMATION:

A. State, in complete form, all names you have ever used or been known by including any and all aliases.

Francisco B. Herrera or Francisco Herrera Reyna

B. List all TDCJ-CID identificaiton numbers you have ever been assigned and all other state or federal prison or FBI numbers ever assigned to you.

T.D.C.J #2151663 SID#506355

## VIII. SANCTIONS:

A. Have you been sanctioned by any court as a result of any lawsuit you have filed? YES ☒ NO

B. If your answer is "yes," give the following information for every lawsuit in which sanctions were imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed sanctions (if federal, give the district and division): \_\_\_\_\_

2. Case number: \_\_\_\_\_

3. Approximate date sanctions were imposed: \_\_\_\_\_

4. Have the sanctions been lifted or otherwise satisfied? YES ☒ NO



C. Has any court ever warned or notified you that sanctions could be imposed? \_\_\_\_ YES X NO

D. If your answer is "yes," give the following information for every lawsuit in which a warning was issued. (If more than one, use another piece of paper and answer the same questions.)

1. Court that issued warning (if federal, give the district and division): \_\_\_\_\_
2. Case number: \_\_\_\_\_
3. Approximate date warning was issued: \_\_\_\_\_

Executed on: 12/13/21  
DATE

Francisco Herrera  
#2151663  
(Signature of Plaintiff)

### PLAINTIFF'S DECLARATIONS

1. I declare under penalty of perjury all facts presented in this complaint and attachments thereto are true and correct.
2. I understand, if I am released or transferred, it is my responsibility to keep the court informed of my current mailing address and failure to do so may result in the dismissal of this lawsuit.
3. I understand I must exhaust all available administrative remedies prior to filing this lawsuit.
4. I understand I am prohibited from bringing an *in forma pauperis* lawsuit if I have brought three or more civil actions or appeals (from a judgment in a civil action) in a court of the United States while incarcerated or detained in any facility, which lawsuits were dismissed on the ground they were frivolous, malicious, or failed to state a claim upon which relief may be granted, unless I am under imminent danger of serious physical injury.
5. I understand even if I am allowed to proceed without prepayment of costs, I am responsible for the entire filing fee and costs assessed by the court, which shall be deducted in accordance with the law from my inmate trust account by my custodian until the filing fee is paid.

Signed this 13 day of December, 20 21.  
(Day) (month) (year)

Francisco Herrera #2151663  
(Signature of Plaintiff)

**WARNING:** Plaintiff is advised any false or deliberately misleading information provided in response to the above questions may result in the imposition of sanctions. The sanctions the court may impose include, but are not limited to, monetary sanctions and the dismissal of this action with prejudice.

**Diana Garcia**

---

**From:** Chris Poage  
**Sent:** Monday, December 20, 2021 3:38 PM  
**To:** Diana Garcia  
**Subject:** Re: AO 435 EXPEDITED TRANSCRIPT REQUEST, 5:21-CR-533-1-FB, USA V. JUAN CARLOS MARTINEZ CECIAS RODRIGUEZ

I can come by the old federal courthouse tomorrow around noon if that's okay.

---

**From:** Diana Garcia <Diana\_Garcia@txwd.uscourts.gov>  
**Sent:** Monday, December 20, 2021 3:36 PM  
**To:** Chris Poage <Chris\_Poage@txwd.uscourts.gov>  
**Subject:** RE: AO 435 EXPEDITED TRANSCRIPT REQUEST, 5:21-CR-533-1-FB, USA V. JUAN CARLOS MARTINEZ CECIAS RODRIGUEZ

Sure.

Where do you want for me to place it?

We no longer have the boxes in the Distribution Area.

Thank you, Diana.

**From:** Chris Poage <Chris\_Poage@txwd.uscourts.gov>  
**Sent:** Monday, December 20, 2021 3:35 PM  
**To:** Diana Garcia <Diana\_Garcia@txwd.uscourts.gov>  
**Subject:** Re: AO 435 EXPEDITED TRANSCRIPT REQUEST, 5:21-CR-533-1-FB, USA V. JUAN CARLOS MARTINEZ CECIAS RODRIGUEZ

I mean the Z drive.

---

**From:** Chris Poage <Chris\_Poage@txwd.uscourts.gov>  
**Sent:** Monday, December 20, 2021 3:34 PM  
**To:** Diana Garcia <Diana\_Garcia@txwd.uscourts.gov>  
**Subject:** Re: AO 435 EXPEDITED TRANSCRIPT REQUEST, 5:21-CR-533-1-FB, USA V. JUAN CARLOS MARTINEZ CECIAS RODRIGUEZ

Hi Diana,

I just realized that I no longer have access to the F Drive. Is it possible to make a CD of this hearing?

Thanks,  
Chris

**From:** Diana Garcia <[Diana\\_Garcia@txwd.uscourts.gov](mailto:Diana_Garcia@txwd.uscourts.gov)>

**Sent:** Monday, December 20, 2021 3:27 PM

**To:** Chris Poage <[Chris\\_Poage@txwd.uscourts.gov](mailto:Chris_Poage@txwd.uscourts.gov)>

**Subject:** RE: AO 435 EXPEDITED TRANSCRIPT REQUEST, 5:21-CR-533-1-FB, USA V. JUAN CARLOS MARTINEZ CECIAS RODRIGUEZ

Your welcome.

**From:** Chris Poage <[Chris\\_Poage@txwd.uscourts.gov](mailto:Chris_Poage@txwd.uscourts.gov)>

**Sent:** Monday, December 20, 2021 3:19 PM

**To:** Diana Garcia <[Diana\\_Garcia@txwd.uscourts.gov](mailto:Diana_Garcia@txwd.uscourts.gov)>

**Subject:** Re: AO 435 EXPEDITED TRANSCRIPT REQUEST, 5:21-CR-533-1-FB, USA V. JUAN CARLOS MARTINEZ CECIAS RODRIGUEZ

Thanks a lot!!

Get [Outlook for iOS](#)

---

**From:** Diana Garcia <[Diana\\_Garcia@txwd.uscourts.gov](mailto:Diana_Garcia@txwd.uscourts.gov)>

**Sent:** Monday, December 20, 2021 1:05:19 PM

**To:** Chris Poage <[Chris\\_Poage@txwd.uscourts.gov](mailto:Chris_Poage@txwd.uscourts.gov)>

**Subject:** AO 435 EXPEDITED TRANSCRIPT REQUEST, 5:21-CR-533-1-FB, USA V. JUAN CARLOS MARTINEZ CECIAS RODRIGUEZ

Hi Chris,

Here you go.

Thank you, Diana

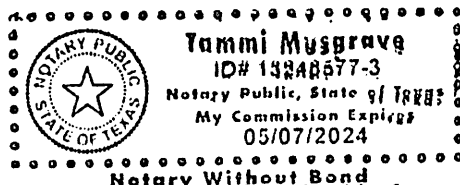
**Affidavit**

Before me, the undersigned authority personally appeared  
Francisco Herrera #2151663 (your name), who duly sworn, deposed as  
 follows: My name is Francisco Herrera, I am over 18 years of age,  
 competent to make this affidavit and personally acquainted with the facts herein stated:

(in the following space write the facts/your statement)

Thank you for Reviewing My Cause 2017CR3850, on transfer to Appeal in Dec. 17, 2018 Under the Texas Rules of Appellate proc. (T.R.A.P.) 34.5 on timely Request but I Never Received Substantial Assistance, I Requesting for transcripts Hearing Sentenced on August 04, 2017 I am Indigent in forma pauperis and transcript Order form (OKT-13) with this an Affidavit and Motion Under (T.R.A.P. 34.5(b)(4)) on timely Request by supplemental Records and (T.R.A.P.) 20.2 with the time to perfect Appeal an Appellant who is unable to pay for Appellate Record the trial Court to have the Appellate Record furnished with out Charge Eff. Sep. or, 1997 the judgment rendered on the Appellants plea Guilty or Not Guilty Under the Art. 10.15 A) for jurisdictional Defect B) by written Motion Before trial Ct) the trial Granted permission Under T.R.A.P.) 40(b)(1) and 25.2(a)(2) Under the perfect Appeal with own Motion App. 2006 Criminal Law & 10.26(2.1) White v. State 61 S.W. 3d 424/428 (Tex. Crim. App. 2001). Because I send the Motion to withdraw Negotiated Plea Notarized in July 13, 2017 with Affidavit Under the Federal Rule of Criminal procedure 32(d). Reversible Conviction Under the Art. 44.02 Texas Code of Crim. proc. for fundamental Errors Affecting Substantial Rights Under (T.R.A.P.) 33.1 pursuant to Tex. Rule of Evid. 103(d) Authorized to take Notice of fundamental Errors Blue v. State 41 S.W. 3d 129, 132 (Tex. Crim. App. 2000) and McClean v. State 312 S.W. 3d 912 (Tex. Crim. App. 2010) Lexis 537. Appellant Asserted that Violation of (T.R.A.P.) 36.10 Should Not have been subject to Harm Analysis Under (T.R.A.P.) 81(b)(2) provides: if the Appellate Record in All Criminal Cases Reveals Errors in the proceedings below the Appellate Court shall Reverse the judgment Under Review Beyond a Reasonable Doubt Jackson v. Virginia 433 U.S. 307, 319, 99 S.Ct. 2789, 61 L.Ed. 2d 560, 573 (1977) Wilhoit v. State 638

The facts stated here are voluntary.



Francisco Herrera #2151663  
 Affiant (your Signature)

Sworn and Subscribed before me on the 14th day of September 2021

S.W. 2d 489, 494 (Tex. Crim. App. 1982); Because the Record showing and reflecting preponderance of Evidence; Because I call to 911 for Police and Ambulance I Declared in Affidavit in open Court Lyaadalupe Gutierrez she's the first Aggressor, when the Police Arrive to the House she's had the Scissors in your hands My Defense Counsel Gerardo C. Flores presented Evidence that Rebutted the Affirmative Defense on Self Defense and Never Established the Defense on Self Defense Texas Penal Code 9.31 2.) subsequent prosecution in Violation U.S.C. Amend. V on Double Jeopardy Because Dismissed Cause 2016 CR6195 for witness out the Country on April 10 on 2017 And ReIndictment the same day Cause 2017CR3850 Criminal Law § 577.9 when the Indictment is Dismissed on Governments Motion Return After thirty Days triggers New statutory time periods Under Speedy trial Act 1863 161(d)(1) Because the Court breached the Proceedings, I was Sentencing in VOID Indictment Identical U.S. v. RABBIT 680 F.2d 294 (1982), U.S. v. Perez 845 F.2d 100, U.S. v. Feldman 788 F.2d 549, Meshell v. State 739 S.W. 2d 246 (Tex. Crim. App. 1987) in Violation Blockburger test, Hobbs Act 1951 and Final Decision on Double Jeopardy 28 U.S.C. § 1291 And Multiplicitous Indictment United States v. CHACKO 169 F.3d 140, 145 (2d Cir. 1999) Mental Condition Amend.

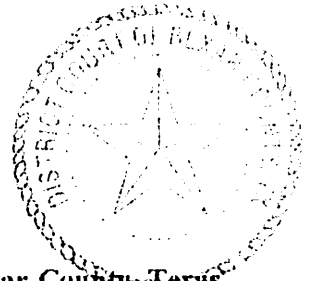
Notary Public in and for (Please Respond me in 10 Business Days)  
 The State of Texas



## CERTIFICATE

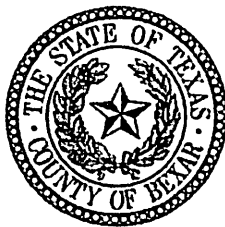
THE STATE OF TEXAS

COUNTY OF BEXAR



I, DONNA KAY MCKINNEY, Clerk of the District Court of Bexar County, Texas do hereby certify that the documents contained in this record, Cause No. 2017CR3850, of which this certification is attached are all of the documents specified by Texas Rule of Appellate Procedure 34.5 (a) and all other documents timely requested by a party to this proceeding under Texas Rule of Appellate Procedure 34.5 (b).

GIVEN UNDER MY HAND AND SEAL of said Court at office in the City of San Antonio, Bexar County, Texas this October 6, 2017.



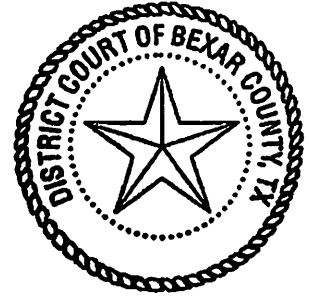
DONNA KAY MCKINNEY

Clerk, 226TH Judicial District  
Court of Bexar County, Texas

By: Jessica Alvarez  
Jessica Alvarez

\*\*\*\*\*

CERTIFIED COPY CERTIFICATE STATE OF TEXAS  
I, DONNA KAY MCKINNEY, BEXAR COUNTY DISTRICT  
CLERK, DO HEREBY CERTIFY THAT THE FOREGOING  
IS A TRUE AND CORRECT COPY OF THE ORIGINAL  
RECORD NOW IN MY LAWFUL CUSTODY. WITNESS  
MY OFFICIAL HAND AND SEAL OF OFFICE ON THIS:



*July 06, 2018*

**DONNA KAY MCKINNEY  
BEXAR COUNTY, TEXAS**

By: *Desiree Garcia*  
DESIREE GARCIA, Deputy District Clerk  
(NOT VALID WITHOUT THE CLERK'S ORIGINAL SIGNATURE.)

**TRANSCRIPT ORDER FORM (DKT-13) - READ INSTRUCTIONS ON LAST PAGE BEFORE COMPLETING**

District Court 226th District Clerk's Bexar County District Court Docket No. 2017-CR-3850  
 Short Case Title Agg. Ass. w/ deadly Weapon  
**ONLY ONE COURT REPORTER PER FORM** Court Reporter Transcript Hearing on Aug. 04, 2017  
 Date Notice of Appeal Filed in the District Court August 14, 2017 Court of Appeals No. 04-17-00541

**PART I.** (To be completed by party ordering transcript. Do not complete this form unless financial arrangements have been made, see instructions on page 2.)

**A. Complete the Following:**

14 Sep. 2021  
☐ No hearings ☐ Transcript is unnecessary for appeal purposes ☒ Transcript is already on file in the Clerk's Office  
**OR**

**Check all of the following that apply, include date of the proceeding.**

This is to order a transcript of the following proceedings: ☐ Bail Hearing ☐ Voir Dire  
☐ Opening Statement of Plaintiff ☐ Opening Statement of Defendant  
☒ Closing Argument of Plaintiff ☐ Closing Argument of Defendant:  
☐ Opinion of court ☐ Jury Instructions ☐ Sentencing 16 years

Other proceedings not listed above:

Hearing Date(s)	Proceeding	Judge/Magistrate
<u>Aug. 04, 2017</u>	<u>Plea Bargain</u>	<u>Mary Herman</u>

Failure to specify in adequate detail those proceedings to be transcribed, or failure to make prompt satisfactory financial arrangements for transcript, are grounds for **DISMISSAL OF APPEAL**.

**B. This is to certify satisfactory financial arrangements have been made. Method of Payment:**

☐ Private Funds; ☐ Criminal Justice Act Funds (Enter Authorization-24 via eVoucher);  
☐ Other IFP Funds; ☐ Advance Payment Waived by Reporter; ☐ U.S. Government Funds  
☐ Other Indigent

Signature Francisco A. Herrera Date Transcript Ordered August 4, 2017  
 Print Name Gerardo G. Flores Phone (210) 417-4198  
 Counsel for Appointment  
 Address 3123 N.W. Loop 410 San Antonio TX 78230  
 Email of Attorney: Fax. (210) 417-4191

**PART II. COURT REPORTER ACKNOWLEDGMENT** (To be completed by the court reporter and filed with the Court of Appeals within 10 days after receipt. Read instructions on page 2 before completing.)

Date Transcript Order Received	Date Satisfactory Arrangements for Payment were Made	Estimated Completion Date	Estimated Number of Pages

Payment arrangements have NOT been made or are incomplete.

Reason: ☐ Deposit not received ☐ Unable to contact ordering party ☐ Awaiting creation of CJA 24 eVoucher

☐ Other (Specify) \_\_\_\_\_

Date \_\_\_\_\_ Signature of Reporter \_\_\_\_\_ Tel. \_\_\_\_\_

Email of Reporter \_\_\_\_\_

**Part III. NOTIFICATION THAT TRANSCRIPT HAS BEEN FILED IN THE DISTRICT COURT** (To be completed by court reporter on date of filing transcript in the District Court. This completed form is to be filed with the Court of Appeals.)

This is to certify that the transcript has been completed and filed at the District Court today.

Actual Number of Pages \_\_\_\_\_ Actual Number of Volumes \_\_\_\_\_

Date \_\_\_\_\_ Signature of Reporter \_\_\_\_\_

## TRANSCRIPT ORDER FORM INSTRUCTIONS

### INSTRUCTIONS FOR ANYONE FILING A NOTICE OF APPEAL

1. Complete Part 1. Whether or not transcripts are being ordered. A single order form should be used for the same court reporter with multiple proceedings (if the number of proceedings exceed the form limitations, additional forms may be used).
2. Contact each court reporter involved in reporting the proceedings to make arrangements for payment. **A SEPARATE ORDER FORM MUST BE COMPLETED FOR EACH COURT REPORTER.**
3. Send a copy of the form to the court reporter (via email or mail, ask court reporter). CJA counsel must also enter an Authorization-24 in the U. S. District Court's eVoucher System. Once the Authorization-24 is approved, create the CJA 24 eVoucher for payment.
4. File a copy of this form with the District Court.
5. File a copy of this form with the U.S. Court of Appeals for the Fifth Circuit (Attorneys must e-file. Pro se filers must mail form unless authorized to e-file).
6. Send a copy to other parties.
7. Retain a copy for your files.

**FAILURE TO MAKE SATISFACTORY ARRANGEMENTS FOR TRANSCRIPT PRODUCTION, INCLUDING FINANCIAL ARRANGEMENTS WITHIN 14 DAYS OF THE FILING OF THE NOTICE OF APPEAL, MAY RESULT IN THE DISMISSAL OF YOUR APPEAL.**

This is an electronic version of the original multipart form. It is your responsibility for ensuring that the correct number of copies are made to meet the distribution requirements.

### INSTRUCTIONS TO COURT REPORTER

To assure the Court of Appeals that the ordering party has fulfilled his or her obligations under FRAP 10(b), for ordering and making adequate financial arrangements with the court reporter, you are requested to complete Part II and file with the Court of Appeals within ten (10) days after receipt. For information on becoming an e-filer, please contact a deputy clerk at the number below.

It is the appellant's responsibility to contact you and make financial arrangements before filling out the form. However, if financial arrangements have not been made within ten (10) days after receipt of transcript order, complete Part II and file with the Court of Appeals. If financial negotiations with the ordering party are still in progress when the 10 days expires, contact a deputy clerk for additional time to complete this form.

If financial arrangements are made after you have notified the Court of Appeals that no financial arrangement were made, immediately notify the Court in writing of the fact, furnishing the estimated delivery date.

**THE JUDICIAL COUNCIL'S DISCOUNT DATE BEGINS TO RUN FROM THE DATE SATISFACTORY FINANCIAL ARRANGEMENTS HAVE BEEN MADE.**

**WRITTEN REQUEST FOR EXTENSION OF TIME WITH EXPLANATION OF CIRCUMSTANCES AND A REQUEST FOR WAIVER OF DISCOUNT MUST BE ADDRESSED TO THE CLERK OF THE CIRCUIT COURT.**

Link to contact information: [Contact Clerk's Office About My Case](#) or call:

NORTHERN AND WESTERN TEXAS CASE TEAM: 504-310-7806

SOUTHERN AND EASTERN TEXAS CASE TEAM: 504-310-7807

LOUISIANA, MISSISSIPPI, & AGENCY CASE TEAM: 504-310-7808

THE STATE OF TEXAS SID No. 506355 IN THE DISTRICT COURT  
 Vs. CAUSE NUMBER 226TH JUDICIAL DISTRICT  
 FRANCISCO HERRERA 2017CR3850 BEXAR COUNTY TEXAS

## DEFENDANTS MOTION FOR A FREE REPORTERS RECORD TO HONORABLE JUDGE OF SAID COURT:

Come now, Francisco Herrera, Defendant in the above styled and numbered Cause, Requests a Free Reporter's Record pursuant to the Texas Rule of Procedure 20.2 and in Support Would Show the Following:

**I**  
 Defendant was Convicted of Aggravated Assault w/ Deadly Weapon in Case Number 2017-CR-3850 in the 226 District Court of Bexar County Texas on August 4, 2017. His trial Counsel Gerardo C. Flores withdrew from the Case that Day.

**II**  
 Defendant is Indigent, and Attached to this Motion is an Unsworn Declaration from Defendant, who is Confined in Prison, which Demonstrates that he has No Funds, Property, or Credit to Purchase the Reporter's Record in his Case. A trial Court has a Duty to provide an Indigent Defendant with an adequate Record on Appeal. *Abdner v. State*, 712 S.W.2d 136, 139 (Tex. Crim. App. 1986).

A Defendant who Claims to be Indigent and Request a Free Reporter's Record must Exercise due Diligence in asserting his Indigency by timely filing his Affidavit or Unsworn Declaration and sustaining the allegations in it as Provided by Texas Rule of Appellate Procedure 20.2 Id at 140. Defendant has met these Requirements by timely filing this Motion and the attached Unsworn Declaration

**III**  
 The Court Reporter estimates the Cost of the Reporter's Record to be approximately \$4,450. Defendant owns No real estate, stocks, or bonds to purchase the Reporter's Record; nor does he possess in a Checking or Savings account any funds with which to purchase the Reporter's Record. He has no other assets, financial or other wins that were Used to Secure the Purchase of the Reporter's Record

**IV**  
 Defendant is entitled to a Free Reporter's Record retained for the Appeal. This Court must Consider Only the Defendant's personal Financial Condition, Not those of his parents, other Relatives, Friends or Employers. See *Castillo v. State*, 595 S.W.2d 552, 554 (Tex. App. 1980); *Abdner*, 712 S.W.2d at 142; *Conrad v. State*, 780 S.W.2d 210, 213 (Tex. Crim. App. 1989); *Crawder v. State*, 933 S.W.2d 273, 275 (Tex. Crim. App. - Houston (14th Dist.) 1996 no pet); *Harper v. State*, 850 S.W.2d 736, 739 (Tex. App. Amarillo, 1993 Pet. ref'd). More Over Indigency is to be Determined at the time the Appeal is filed, Not at the time of trial. See *Spoke*, 780 S.W.2d at 213 (CONTINUANCE) on II PART



STATE OF TEXAS <sup>CAUSE NUMBER</sup> 2017-CR-3850 <sup>IN THE DISTRICT COURT</sup>  
<sup>Vs.</sup> FRANCISCO HERRERA, SID No. 506355 <sup>226TH JUDICIAL DISTRICT</sup>  
<sup>BEXAR COUNTY TEXAS</sup>

DEFENDANT'S MOTION FOR A FREE REPORTER'S RECORD

## II SECOND PART

that Defendant made Bail and Retained Counsel at trial is Not Determinative of His Indigency at the time of Appeal. See Hicks V. State 544 S.W. 2d 424, 425 (Tex. Crim. App. 1976); Taforraji V. State 818 S.W. 2d 921, 923 (Tex. Crim. App. - Houston [14th Dist.], 1991, no Pet).

## CONCLUSION

Defendant Respectfully Request that Court Furnish the Reporter's Record to him without Charge so he can Pursue the Appeal.

On 14th of Sep. of 2021

Respectfully Submitted  
Francisco Herrera

## CERTIFICATE OF SERVICE

IN THE 226TH DISTRICT COURT  
OF BEXAR COUNTY TEXAS

STATE OF TEXAS

<sup>CAUSE NUMBER</sup>  
No. 2017 CR 3850

<sup>Vs.</sup>  
FRANCISCO HERRERA  
SID No. 506355

## ORDER

DEFENDANT'S MOTION FOR A FREE REPORTER'S RECORD

GRANTED the Court Orders that the entire Reporter's Record be Sent to Defendant with No Charge

DENIED to which the Defendant timely objects

Signed On

Honorable Judge Presiding

STATE OF TEXAS CAUSE No. 2017CR3850 IN THE DISTRICT COURT  
Vs 226TH JUDICIAL DISTRICT  
Francisco Herrera BEXAR COUNTY TEXAS  
SID No. 506355

## REQUEST FOR REPORTER'S RECORD

TO THE HONORABLE JUDGE OF SAID COURT:

Pursant to the Texas Rule of Appellate Procedure 34.6,  
Defendant: Francisco Herrera Request the Official Court  
Reporter to Prepare the Reporter's Record. Under Texas  
Rule of Appellate Procedure 37.3, Defendant is  
Indigent and Request the County pay for the  
preparation of the Court Reporter's Record and  
to Pay the Court Reporter's fee.

Respectfully Submitted  
Francisco Herrera

Defendant's Reporter's Record to be Mailed to Defendant's  
Current Address at Francisco Herrera, Texas Department of  
Criminal Justice #2151663. [REDACTED]  
11950 FM 998 Dalhart tx. 79022

## CERTIFICATE OF SERVICE

I Hereby Certify that a true and Correct copy of the  
foregoing Motion was sent to via Mail to the Bexar County  
District Clerk's and District Attorney Respectfully submitted

Francisco Herrera On the 14th of Sep. on 2021



THE STATE of TEXAS Cause No. 2017-CR-3850 IN THE DISTRICT COURT  
 Vs.  
 Francisco Herrera 226 JUDICIAL DISTRICT  
 SID No. 506355 BEXAR COUNTY TEXAS  
 DEFENDANT'S REQUEST RECORDS CLERK'S

Under Texas Rules of Appellate Procedure 34.5 this Request is Being Made By Defendant: Francisco Herrera (Defendant) Pro se in the Above Cause, Namely The State of Texas Vs. Francisco Herrera in 226 District Court on Bexar County Texas Cause No. 2017-CR-3850 Defendant files this Request for items to be included in the Clerk's Records in the appeal of the above Cause to the Fourth Court of Appeals. Defendant Request that the Clerk's Include All Transcript, Stipulations, Voice Recordings, Plea Bargain and Courts, Name of presiding Judge During Plea Bargain, all post-judgment Motions and the Orders on those Motions, AFFIDAVITS, Orders and Judgment. Defendant is Indigent and the Responsibility to pay for the Preparation of this Record falls on the State. Defendant's Request Clerk's Records to be Mailed to Defendant's Current Address at Francisco Herrera Texas Department of Criminal Justice #2151 663 [REDACTED] 11950 FM 998 Dal Hart tx. 79022

### CERTIFICATE of SERVICE

I Hereby Certify that a true and Correct Copy of the foregoing Motion Was Sent via Mail to the Bexar County District Clerk's and District Attorney Respectfully Submitted. Office, 101 W. Nueva Street, San Antonio Texas 78205.

Francisco Herrera

On 14th of Sep. on 2021

CAUSE # 2017CR3850

THE STATE OF TEXAS

§  
§  
§  
§  
§

IN THE 226TH DISTRICT COURT

VS.

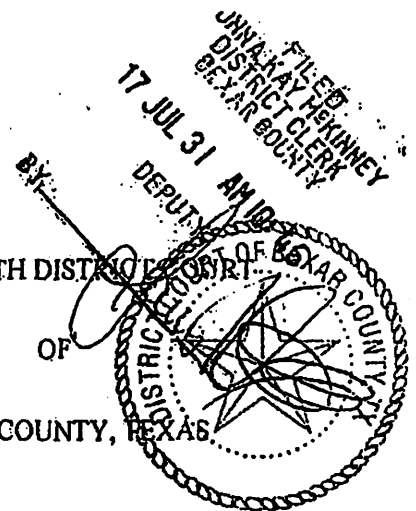
CRT

BY:

OF

HERRERA, FRANCISCO R

BEXAR COUNTY, TEXAS



## SUPPLEMENTAL REPORT

On June 26, 2017, the defendant, Herrera, Francisco R., entered a plea of no contest to the offense of Aggravated Assault w/Deadly Weapon and applied for Deferred Adjudication/Regular probation.

On, July 27, 2017, PSI Officer attempted to interview the Defendant at the Bexar County jail. The Defendant declined the interview and stated that he does not want probation. The Defendant stated that he would like this charge/case dismissed and is going to speak with his attorney in an attempt to get this taken care of. The Defendant stated that he filed a Motion to Withdraw Negotiated Plea on July 13, 2017.

The case is set for court on August 4, 2017.

1. Submit PSI with criminal history and victim impact statement;
2. Other \_\_\_\_\_

The foregoing report is respectfully submitted to the Honorable Court.

Returned:  
Submitted:

  
QUINTERO, SUZETTE  
SUPERVISION OFFICER

Approved:  
  
MANAGER  
BEXAR COUNTY COMMUNITY SUPERVISION &  
CORRECTIONS DEPARTMENT

  
JUDGE

THE STATE OF TEXAS

Francisco Herrera

Vs.

CAUSE No. 2017-CR-3850

Motion to Withdraw Negotiated Plea

IN THE DISTRICT COURT

226 JUDICIAL DISTRICT

BEXAR COUNTY TEXAS

TO THE HONORABLE JUDGE OF SAID COURT:

Come now, Francisco Herrera Defendant in the above styled and numbered Cause and files this his Motion to Withdraw Negotiated plea and in support of said Motion would show the Court the following:

I. Defendant was charged on the 15 day of April 2016 with the felony offense of Agg Assault which is a violation of Section 22.02 of the Texas Penal Code.

II. on the 26 day of June 2017, Defendant entered a negotiated Plea of No Contest with a plea Bargain at 18 years cap.

III. Defendant's plea was Involuntary for the following Reasons:

A. They was going to Dismissed my Charge of Agg Assault to a Second Degree felony in Consideration of Probation because is my first felony.

B. My Interpreter Never Reading any papers Before signed Required on the Article 38.30 in Texas Criminal Procedure in any Criminal proceeding.

C. My Attorney Lierardo Flores He Never said about to taken away my Rights to Appeals and My Constitutional Rights Before to judge; Plan Intelligible.

WHEREFORE, PREMISES CONSIDERED, Defendant pray the Court

Grant His Request to Withdraw His Negotiated Plea

Respectfully Submitted, Defendant: Francisco Herrera

### CERTIFICATE of SERVICE

I hereby Certify that on this the 10 day of July 2017 and true and correct

Copy of the above and foregoing Motion to Withdraw Negotiated plea

was transmitted to the office of the Bexar County District Attorney,

Criminal Justice Center, 101 W. Nueva, San Antonio Texas 78205

### ORDER

On this the \_\_\_\_\_ Came on to be heard Defendant's Motion to Withdraw Negotiated plea and said Motion is hereby

☐ GRANTED ☐ DENIED

Signed this \_\_\_\_\_ day of \_\_\_\_\_

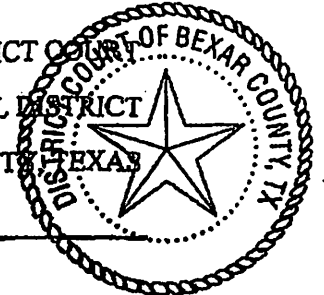
JUDGE Presiding



Cause NO. 2017-CR-3850

THE STATE OF TEXAS

VS.

Francisco HerreraIN THE DISTRICT COURT OF BEXAR COUNTY, TX  
226 JUDICIAL DISTRICT  
BEXAR COUNTY, TEXAS

## AFFIDAVIT

on 26 June 2017 I was to Impact Court Never Recived Copy of my plea Bargain Because  
 My Attorney Fernando Flores All times he Wanted was to Hurry up and Get thing Over  
 Quick and Never Explain what Clarification and Patience Put me a lot Pression.  
 My Interpreter Never Reading any papers Before signed me Require By Law Under  
 Article 38.30 of the Texas Criminal Procedure I was Hoping My Attorney would  
 Inform Before signed this stipulation Because they were going to Get Adjudication  
 Ignore without Reasonable of Doubt, this Court Duress Care Made No objection  
 of Raising the Appeal Issues of allowing falsified Report and Statements  
 Against me Simply Because I was thinking of Dealing with this Matter in a  
 Better Away. Please throw Away My plea Bargain, I'm Still in My 30 Days Appeal  
 Thank you!

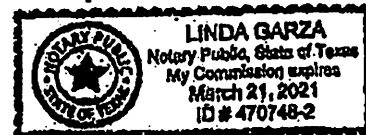
God Bless you!

Francisco Herrera

AFFIANT

STATE OF TEXAS \* \* \* \*

COUNTY OF BEXAR \* \* \* \*



ON THIS 5 DAY OF July, 2017, PERSONALLY  
 APPEARED BEFORE ME Francisco Herrera WHO  
 STATED UNDER OATH THAT THE ABOVE AND FOREGOING INFORMATION  
 CONTAINED IN THE AFFIDAVIT IS TRUE AND CORRECT.

SWORN TO AND SIGNED BEFORE ME ON THIS THE 5 DAY OF  
July, 2017.

[Signature]  
 NOTARY PUBLIC

~~Affirmative Defense to a State Criminal Charge, Courts Recognition of Conviction by State  
 Court Braden v 30th Judicial Circuit Court of Kentucky 410 U.S. 494, 90 S.Ct. 1123, 75 L.Ed.2d 1423 (1973)~~

Cause NO. 2017-CR-3850

THE STATE OF TEXAS

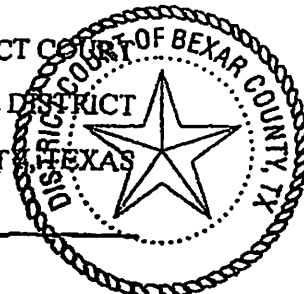
VS.

Francisco Herrera

IN THE DISTRICT COURT OF BEXAR COUNTY, TEXAS

226 JUDICIAL DISTRICT

BEXAR COUNTY, TEXAS



## AFFIDAVIT

I Francisco Herrera Declare I am Being Continually Discriminated Against Deprived me of my Constitutional Rights and Rights to Appeals Because the Assistant Criminal District Attorney State Bar #24068964 in Conspiracy and Manipulation my Attorney Gerardo Flores had made signed Involuntary my plea Bargain on 26 June 2017 Because I Can Understand what was signed in this time Because my Interpreter Never Reading any papers Before signed Violating my Interpreter Rights Require By Law Under Article 38.30 of Texas Criminal Procedure. Because they were going to Get Adjudication Ignore without Reasonable of Doubt, this Court Dures Core made No objection of Raising the Appeal Issues of allowing falsified statements Against me Simply Because I was thinking of Dealing with this Matter in Better Away Please throw Away my plea Bargain I am Still on My 30 Days Appeal

Thank you!

God Bless you!

Francisco Herrera

AFFIANT

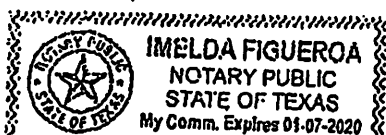
I am Non English Speaking Individual and had my Original affidavit to English with the Assistance of a fellow-Inmate

STATE OF TEXAS \* \* \* \*

COUNTY OF BEXAR \* \* \* \*

ON THIS 10 DAY OF July, 2017, PERSONALLY  
 APPEARED BEFORE ME Francisco Herrera WHO  
 STATED UNDER OATH THAT THE ABOVE AND FOREGOING INFORMATION  
 CONTAINED IN THE AFFIDAVIT IS TRUE AND CORRECT.

SWORN TO AND SIGNED BEFORE ME ON THIS THE 10 DAY OF  
July, 2017.



NOTARY PUBLIC

2017-CR-3850

NAME OF PARTIES  
0226 04/10/2017

STATE OF TEXAS VS.  
HERRERA. FRANCISCO R  
ACB ASSLT MDW&SBI-FAM/DATIN

SCC - 701

**ATTORNEYS COURT REPORTER**

Clarissa Pratt, Tech Kemmy  
 STATE ATTORNEY  
 Gerardo Flores  
 DEFENSE ATTORNEY  
 Erminia Uriedo  
 COURT REPORTER

**COURT INTERPRETER**

### COURT ACTIVITY

JUDGE PRESIDING \_\_\_\_\_  
 NO RECOMMENDATION/NO PLEA BARGAIN  
 PLEA BARGAIN AGREEMENT \_\_\_\_\_  
 (P) (M) (D) (F) (T) (C) (J) (D) (B) (A) (C) (S) (T) (A) (T) (E) (J) (A) (I) (L)  
 \$ \_\_\_\_\_ Residation \_\_\_\_\_  
 \$ 1000;  
 Comm Supervision (Recommended)(Silent)(Opposed) \_\_\_\_\_  
 Def Adjudication (Recommended)(Silent)(Opposed) \_\_\_\_\_  
 Cases to Run Concurrent/Consecutively \_\_\_\_\_  
 Cases Taken into Consideration: \_\_\_\_\_  
 A.D.W. No: Custody  
 Non Binding Recommendations Substenez  
 DYS MOS/BCAD/CST JAIL (C/Cond of Suprvsn)  
 HRS Community Service/ \_\_\_\_\_ DYS FLM

## COURT RULING

(S) IRS (MOS) DYS (TOC) IBCAD (ST/JAL)  
 \_\_\_\_\_ Fine \$ \_\_\_\_\_ Rejection \_\_\_\_\_  
 Payable to: Bureau of Prisons  
 \_\_\_\_\_  
 Affirmative Finding of a Deadly Weapon  
 S.A.L.P. (Shoot Camp) \_\_\_\_\_ Shock Supervision \_\_\_\_\_  
 Drivers License Suspension Start Date: \_\_\_\_\_  
 End Date: \_\_\_\_\_  
 SA/PP (Comm Supervision) (Attended Comm Supv.) \_\_\_\_\_  
 Therapeutic Community Program \_\_\_\_\_  
 \_\_\_\_\_ IIRS Community Service \_\_\_\_\_ DYS ELM \_\_\_\_\_  
 \_\_\_\_\_ DYS MOS (BCADC) (STATE JAIL) (Cond of Supr) \_\_\_\_\_  
 (Work/Weekend) Release Program (Cond of Supervs) \_\_\_\_\_  
 Found TRULIS to Enhancement Paragraph as a Repeater \_\_\_\_\_  
 Found TID to be Enhancement Paragraph as a Habitual \_\_\_\_\_

... Officer: FILED DISTRICT CLERK  
ADDN  
 DONNA KAY SIKKINS  
 ISSAAR COUNTY DISTRICT CLERK

By \_\_\_\_\_ DEPUTY

**OFFENSE INFORMATION**

INDUCED TO ENTER OFFENSE  
Agg. Assault & SBI, but not  
STAG PROCEEDS ON COUNT (1) \_\_\_\_\_  
PARAGRAPH \_\_\_\_\_ Family  
ENHANCEMENT PARAGRAPH (1) \_\_\_\_\_

**DATE OF ENTRY**

## COURT ENTRIES

2017

Document Type: CLERKS RECORD

Page 105 of 107

105

Cause NO. 2017-CR-3850

THE STATE OF TEXAS

IN THE DISTRICT COURT

VS.

379TH JUDICIAL DISTRICT

BEXAR COUNTY, TEXAS

Francisco HerreraTHE HONORABLE JUDGE SID HARLE

## AFFIDAVIT

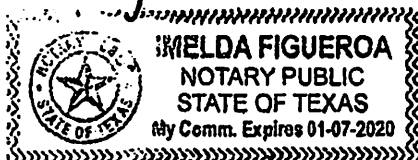
I Francisco Herrera Declare Before a State or Federal Court that I am Being Continually Discriminate Against by Not Granting Me Equality of Constitutional Rights by Not Correctly Investigating My Cause, that is why Decide to Ask for Help and protection from the Mexican Consulate General Signing Authorization on Access for Courts, Attorney and Hospital to Release all Records for proper Investigation. Because the District Attorney with the #24068964 Violating that Duties of District Attorney Under Art 2.01 Damaging Me physically, economically and Mentally Having Signed Cause Dismissed on 4/10/17 2016-CR-6195 and Reindicted the same Day 2017-CR-3850. The state Can Not Use the same Prior Conviction More than Once on the same Prosecution Hernandez V. State 929 S.W. 2d 11 (Tex. Crim. App. 1996) do Not violate the Prohibition Against Double Jeopardy, Defects in Complaints must be raised Before trial Ramirez V. State, 105 S.W. 3d 628, Tex Crim. App. 2003; Aguilar V. State, 846 S.W. 2d 318 (Tex. Crim. App. 1993); Please "See in the back" please

AFFIANT Francisco Herrera

STATE OF TEXAS \* \* \* \*

COUNTY OF BEXAR \* \* \* \*

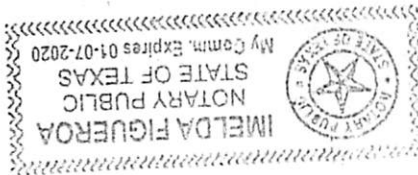
ON THIS 11 DAY OF May 2017 PERSONALLY  
 APPEARED BEFORE ME Francisco Herrera WHO  
 STATED UNDER OATH THAT THE ABOVE AND FOREGOING INFORMATION  
 CONTAINED IN THE AFFIDAVIT IS TRUE AND CORRECT.

SWORN TO AND SIGNED BEFORE ME ON THIS THE 11<sup>th</sup> DAY OFMay, 2017

[Signature]  
 NOTARY PUBLIC

5/11/17





NOTARY PUBLIC

SWORN TO AND SIGNED BEFORE ME ON THIS THE 8 DAY OF June, 2017

ON THIS 8 DAY OF June, 2017, PERSONALLY WHO Francisco Herrera APPEARED BEFORE ME STATED UNDER OATH THAT THE ABOVE AND FOREGOING INFORMATION CONTAINED IN THE AFFIDAVIT IS TRUE AND CORRECT.

COUNTY OF BEXAR  
STATE OF TEXAS

AFFIANT

Francisco Herrera

I Francisco Herrera Declare Before STATE or FEDERAL COURT I am Being Continually Discriminated Against Damaging Me Physically, Economically and Mentally. I was Arrested on 15 April 2016 for Aggravated Assault with Deadly Weapon Cause No. 2016-CR-6195 but I Have Dismissed Cause on 10 April 2017 in the 379<sup>th</sup> District Court for the Judge SID HARLE Deprived My Liberty and Violating My Constitutional Rights the Assistant District Attorney STATE Bar #2406864 Abused Authority and Violating Double Jeopardy. Accepting in Conspiracy Constituting Bribe. Because on 4/19/2017 Made ReIndictment Cause No. 2017-CR-3850 violating IV, XIV Amendment and Art 1 Sec 14 Tex. Const. State Bar #2406864

AFFIDAVIT

THE STATE OF TEXAS  
VS.  
Francisco Herrera  
(Petitioner), Civil Action No. SA-17-CA-460-XR  
IN THE DISTRICT COURT  
379<sup>th</sup> JUDICIAL DISTRICT  
BEXAR COUNTY, TEXAS

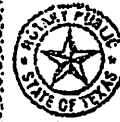
Cause NO. 2017-CR-3850



Francisco Herrera

Mgi. u/8/17

page 2046



IMELDA FIGUEROA  
NOTARY PUBLIC  
STATE OF TEXAS  
My Comm. Expires 01-07-2020

- \* The State Can Not use the same prior Conviction More than Once on the Same prosecution Hernandez V. State 9292d11 (Tex. Crim. App. 1996) \*
- \* Defects in Complaints must be Raised Before trial Ramirez V. State 105 S.W. 3d 628 (Tex. Crim. App. 2003); Aguilar V. State 846 S.W. 2d 318 (Tex. Crim. App. 1993) \*
- \* Art. 2 Sec. 14 No person, for the same offense, shall be twice put in jeopardy of Life or Liberty, Nor shall a person be again put upon trial for the same offense a Verdict of Not Guilty in a Court of Competent Jurisdiction \*
- \* Amendment IV. the right of the people to be Secure in their persons, Houses, papers and Effects, against Unreasonable Searches and Seizures, shall Not be Violated, and Not Warrants shall issue, but Upon probable Cause, Supported by Oath or affirmation, and Particularity describing the place to be searched, and the Person or things to be Seized \*
- \* Amendment V. No person shall be held to answer for a Capital, or otherwise infamous Crime, Unless on a presentment Indictment of a Grand Jury, except in Cases arising in the land or Naval forces, or in the Militia, when in Actual Services in time of War or public Danger; Nor shall any person be Subject for the same offence to be twice put in jeopardy of Life or Limb; Nor shall be Compelled in any Criminal Case to be a witness against himself, Nor be deprived of Life, Liberty, or property, Without due process of Law; Nor shall private property be taken for public Use, Without just Compensation. \*
- \* Amendment XIV. Nor shall any State Deprive any person of Life, Liberty or Property without due process; Nor Deny to any person within its jurisdiction the equal protection of the Laws. \*
- \* (Charging members of Legislature with Conspiracy to Accept bribe with Understanding they Would Use their Vote, influence, and powers of Office to pass Certain Legislation brought Before them in official Capacities; Even if Instrument Charged two or More separate offenses within Count, there was Only one Act Consisting of one agreement among Conspirators, one offer Constituting bribe and One Acceptance), Nisbet V. State 170 Tex. Crim. 1, 336 S.W. 2d 142 (1959) \*
- \* Duplicity is the technical fault of uniting two or More Distinct and separate Offenses

CAUSE NO: 2016 CR 6195  
 OFFENSE: Agg Assault DW & SBF

THE STATE OF TEXAS § IN THE 226 DISTRICT COURT  
 V. § COUNTY COURT NO. \_\_\_\_\_  
Francisco R. Herrera § BEXAR COUNTY, TEXAS

MOTION TO DISMISS

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES NICHOLAS LAHOOD, Criminal District Attorney of Bexar County, Texas by and through the undersigned Assistant Criminal District Attorney, and respectfully requests the Court to dismiss the above entitled and numbered criminal action for the following reason:

- ☐ 0604 – The Defendant was convicted (or sentence deferred) in another case or count.
- ☐ 0606 – The Defendant is in custody in another jurisdiction.
- ☐ 0608 – Old case, no arrest.
- ☐ 0609 – The Defendant was granted immunity.
- ☐ 0610 – Motion to suppress granted.
- ☐ 0611 – Insufficient evidence.
- ☐ 0612 – Co-Defendant convicted, insufficient evidence as to this Defendant.
- ☐ 0614 – A necessary and material witness is missing.
- ☒ 0615 – Other. (see explanation below)
- ☐ 0617 – Case re-indicted/re-filed.
- ☐ 0626 – The law enforcement agency failed to submit necessary evidence.
- ☐ 0629 – Complainant requested case be dismissed.
- ☐ 0630 – The Defendant died.
- ☐ 0639 – Defendant completed a pretrial diversion program.
- ☐ 0672 – Rejected extraneous offense.
- ☐ 0673 – Rejected multi-count charging document filed.
- ☐ 0681 – Further investigation.
- ☐ 0682 – Restitution paid in full.
- ☐ 0699 – Created in error.

EXPLANATION: a material witness is out of the country

WHEREFORE, PREMISES CONSIDERED on this the 10<sup>th</sup> day of April, 2017, it is requested that the above entitled cause be dismissed.

Respectfully submitted,

Clarence E. Pratt  
 Assistant Criminal District Attorney  
 Bexar County, Texas  
 State Bar Number 24068964

ORDER

The foregoing motion having been presented to me on this the 10<sup>th</sup> day of April, 2017 and the same having been considered, it is ORDERED, ADJUDGED AND DECREED that said above entitled and numbered cause be and the same is hereby dismissed.

[Signature]  
 Presiding Judge, Bexar County, Texas

**Defendant:** FRANCISCO R HERRERA  
**JN #:** 1736685-1

**STATE'S COPY**

**Address:** 439 FRESNO, SAN ANTONIO, TX 78212

**Complainant:** Guadalupe Gutierrez

**CoDefendants:**

**Offense Code/Charge:** 130130 - AGG ASSLT WDW&SBI-FAM/DATING

**GJ:** 629368

**PH Court:** 226

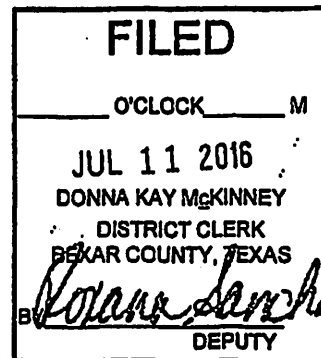
**MAG NO:** 303812

**Court #:** 226

**SID #:** 506355

**Cause #:**

**Witness:** State's Attorney



2016- CR - 6195

**TRUE BILL OF INDICTMENT**

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS, the Grand Jury of Bexar County, State of Texas, duly organized, empanelled and sworn as such at the July term, A.D., 2016, of the 379<sup>th</sup> Judicial District Court of said County, in said Court, at said term, do present in and to said Court that in the County and State aforesaid, and anterior to the presentment of this indictment:

**COUNT I**

on or about 16th Day of April, 2016, FRANCISCO R HERRERA, hereinafter referred to as defendant, did intentionally, knowingly and recklessly cause serious bodily injury to Guadalupe Gutierrez by CUTTING AND STABBING THE COMPLAINANT WITH A DEADLY WEAPON, NAMELY, A PAIR OF SCISSORS, THAT IN THE MANNER OF ITS USE AND INTENDED USE WAS CAPABLE OF CAUSING DEATH AND SERIOUS BODILY INJURY, and during the commission of said assault the defendant used a deadly weapon, to-wit: SCISSORS, THAT IN THE MANNER OF ITS USE AND INTENDED USE WAS CAPABLE OF CAUSING DEATH AND SERIOUS BODILY INJURY, and Guadalupe Gutierrez was a person with whom the defendant has or has had a dating relationship as described by Section 71.0021 of the Family Code;

**COUNT II**

on or about the 16th Day of April, 2016, FRANCISCO R HERRERA, hereinafter referred to as defendant, did use and exhibit a deadly weapon, NAMELY: A PAIR OF SCISSORS, THAT IN THE MANNER OF ITS USE AND INTENDED USE WAS CAPABLE OF CAUSING DEATH AND SERIOUS BODILY INJURY, and defendant did intentionally, knowingly and recklessly CAUSE BODILY INJURY to Guadalupe Gutierrez, hereinafter referred to as complainant, by CUTTING AND STABBING THE COMPLAINANT WITH SAID DEADLY WEAPON;

**AGAINST THE PEACE AND DIGNITY OF THE STATE.**

\_\_\_\_\_  
Foreman of the Grand Jury

**Defendant:** FRANCISCO R HERRERA

**JN #:** 1736685-1

**DEFENDANT'S COPY**

**Address:** , ,

**Complainant:** Guadalupe Gutierrez

**Offense Code/Charge:** 130130 - AGG ASSLT WDW&SBI-FAM/DATING

**GJ:** 629368

**PH Court:**

**MAG NO:**

**Court #:**

**SID #:** 506355

**Cause #:**

**Witness:** State's Attorney

<b>FILED</b>	
____ O'CLOCK ____ M	
<b>APR 10 2017</b>	
DONNA KAY MCKINNEY	
DISTRICT CLERK	
BEXAR COUNTY, TEXAS	
BY <i>Jason R. Ruiz</i>	DEPUTY

TRUE BILL OF INDICTMENT

2017 - CR - 3850

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS, the Grand Jury of Bexar County, State of Texas, duly organized, empanelled and sworn as such at the March term, A.D., 2017, of the 175 Judicial District Court of said County, in said Court, at said term, do present in and to said Court that in the County and State aforesaid, and anterior to the presentment of this indictment:

**COUNT I**

on or about 16th Day of April, 2016, FRANCISCO HERRERA, hereinafter referred to as defendant, did intentionally, knowingly and recklessly cause serious bodily injury to Guadalupe Gutierrez by CUTTING AND STABBING THE COMPLAINANT WITH A DEADLY WEAPON, NAMELY, A PAIR OF SCISSORS, THAT IN THE MANNER OF ITS USE AND INTENDED USE WAS CAPABLE OF CAUSING DEATH AND SERIOUS BODILY INJURY, and during the commission of said assault the defendant used a deadly weapon, to-wit: SCISSORS, THAT IN THE MANNER OF ITS USE AND INTENDED USE WAS CAPABLE OF CAUSING DEATH AND SERIOUS BODILY INJURY, and Guadalupe Gutierrez was a person with whom the defendant has or has had a dating relationship as described by Section 71.0021 of the Family Code;

**COUNT II**

on or about the 16th Day of April 2016. FRANCISCO HERRERA, hereinafter referred to as defendant, did use and exhibit a deadly weapon, NAMELY: A PAIR OF SCISSORS, THAT IN THE MANNER OF ITS USE AND INTENDED USE WAS CAPABLE OF CAUSING DEATH AND SERIOUS BODILY INJURY, and defendant did intentionally, knowingly and recklessly CAUSE BODILY INJURY to Guadalupe Gutierrez, hereinafter referred to as complainant, by CUTTING AND STABBING THE COMPLAINANT WITH SAID DEADLY WEAPON;

**VENESSA**

AGAINST THE PEACE AND DIGNITY OF THE STATE.

**HERNANDEZ**

Foreman of the Grand Jury

## Affidavit

Before me, the undersigned authority personally appeared Francisco Herrera #2151663 (your name), who duly sworn, deposed as follows: My name is Francisco Herrera, I am over 18 years of age, competent to make this affidavit and personally acquainted

with the facts herein stated: (in the following space write the facts/your statement)

The Defendant Francisco Herrera Does Not, Write, Read or Understand English. Jose Nieves #2146669 is Helping Write this letter and Attached Motion to Request Clerk's Records We Understand that Defendant's Options are to file Motion for New trial and/or file Writ of Habeas Corpus 11.07. Defendant would like to Proceed with all these Options We Also are Aware that Gerardo Flores Has withdrawn from this Case and that Jacqueline Lamerson Has Only been Appointed on Fourth Court of Appeals on Bexar County Dismissed on November 8 on 2017 and Can Not Help any further. But Now is left without legal Representation to Help Him Pursue any of these Options. Because Defendant didn't Understand and Didn't Have Appropriate Help to Understand is why he wanted to withdraw Plea Bargain Before he was Sentence. Defendant Places Himself at the Mercy of the Court and formally Request Judge Issue and Order's Appointment and judgement and Judge's Discretion. Only Please Help, your Honor, I am innocent and am Requesting an Opportunity to Defendant My Self. Respectfully Submitted.

The facts stated here are voluntary.

Francisco Herrera  
Affiant (Your Signature)

Sworn and Subscribed before me on the 18 day of January, 20 18

Notary Public Seal for Baldemar I. Rodriguez, Notary Public In and for The State of Texas, My Commission Expires 05 29 2019, Notary Without Bond.





**City of San Antonio**  
**San Antonio Police Department**  
**Crime Scene Search Report**



**Crime Scene Case Header**

\*Case No.: SAPD16080957 CFS Case No.: \_\_\_\_\_ \*Off/Incident: Aggravated Assault

\*Place of Occurrence: 439 Fresno St. \*District: 2240

Reported: \*Date: 04/16/2016 Arrived: \*Date: 04/16/2016 Completed: \*Date: 04/16/2016

\*Time: 0233 \*Time: 0247 \*Time: 0540

Connected Person(s) – Suspect/Victim/Witness/Arrested Person:

S/V/W/ AP	Name	Gender	DOB	Race	Address	Phone	Add
V	GUTIERREZ, GUADALUPE	Fem	12/12/60		439 Fresno St.		Delete
AP	HERRERA, FRANCISCO REYNA	Mal	12/31/69				Delete

**Evidence**

**Photos:** ☐ No ☒ Yes ☒ Regular Photos Quantity: 103 ☒ Add'l Details

Additional Photo Details:

I took approximately (103) overall, medium and close range images of the Ap and the AP's injuries, interior and exterior views of the above listed LOC1, and any items of evidence (with and without scale). I transferred the (103) images to one blank SAPD Evidence CD. I confirmed that the images were on the SAPD Evidence CD then labeled and initialed the CD. I placed the SAPD Evidence CD (marked as Master) and an SAPD photo record into one CD sleeve, which I subsequently deposited in the Secure Photo Services Drop Box, located at the Central Substation at 515 S. Frio Street.

☐ PanóScan Photos

**Video:** ☒ No ☐ Yes

**Graphics:** ☐ No ☒ Yes ☒ Sketch ☐ Diagram ☐ 3D Laser Scan ☒ Add'l Details

Additional Graphics Details:

Using the rectangular coordinate method, I drew a rough sketch of the scene and took general measurements of the evidence items. I shall retain this rough sketch in my notes for future reference.

**Physical Evidence:** ☐ No ☒ Yes

Evidence Collected:

I collected the following items of evidence from the crime scene.

*Controversial Evidence*  
*Error*

E1: Grey and orange Scissors with apparent blood; "Wescott, Titanium", collected from the table inside the above listed LOC1.  
 E2: Blood swab, wet and dry swab, collected from brown chair (lazyboy) inside the above listed LOC1.  
 E3: Clothing:  
 One (1) pair pink polka dot womens pants with apparent blood "Covington, Size 1X"  
 One (1) pair pink in color womens top with apparent blood "Faded Glory, Size 3X."  
 One (1) pair black and white womens house slippers: "Déar Joams, Size Large."  
 One (1) pair pink womens underwear with apparent blood "Fruit of the Loom, Fit for Me, Size 10",  
 Collected from CSI O. Cardenas #9405 @0407 hrs at 515 s. Frio.

1-4

## SUPPLEMENTARY REPORT

## OFFENSE CLASSIFICATION

PAGE 3 OF 6

ASSIGNMENT NO: SAPD 16-080957

OFFENSE NO: 130130

DATE REPORTED: April 16, 2016

ROUTING: File

PC 22.02 Aggravated Assault-DW-SBI-Family

## SAN ANTONIO POLICE DEPARTMENT

Last name of Complainant, First, Middle Initial	Race	Sex	D.O.B.	Address of Complainant	Phone Number
Gutierrez, Guadalupe	H	F	12-12-2016	439 Fresno SAT	(210) 365-8561
Place of Occurrence-Street on- at or Number	Dist. Occurrence	Date & Time of Occurrence	Date and Time of this Report		
439 Fresno SAT	2240	April 16, 2016; 0205	April 27, 2016		

## Additional Detail of Offense-Progress of Investigation-Disposition of Evidence, Property, Etc...

he speaks Spanish. I again asked AP1 what happened, hoping that AP1 might speak slowly enough that I could understand more of what he was saying.

- AP1 again spoke Spanish and seemed to perceive that I was not understanding. Twice while he was speaking, AP1 held out his hands in front of him as if gesturing for me to handcuff him. Finally, AP1 said "I'm guilty!" and then lead me into the residence where I found V1 sitting in a recliner in the living room. I saw that V1 was bleeding from her chest and told AP1 to move to the front porch area. AP1 complied and I was able to safely assess V1's condition.

Controversial Evidence

- I found that V1 had a puncture wound on the left side of her chest that was approximately one inch in length. V1 presented a pair of scissors and said that AP1 had stabbed her with them. V1 indicated with the scissors that AP1 did not merely stick her with the scissor blade but moved the blade around while it was in her chest. V1 said it had been "a while" since the assault took place. The blood on V1's clothing was fresh but she did not appear to be actively bleeding from the wound as I was assessing. I requested an expedited response from EMS personnel and then immediately secured AP1 in handcuffs and placed him in my patrol vehicle.
- EMS personnel arrived on scene and began to treat V1. Officer Christensen #1346 was able to speak further with V1 while she received treatment and relayed that V1 told him that AP1 stabbed her because she was getting onto him for his always being drunk. See Officer Christensen's supplement report for further details. The report from EMS personnel was that V1 appeared to be in stable, fair condition. V1 was transported to University Hospital as precaution for further evaluation. SUP responded to the scene and was briefed on the incident. I called DET and informed him of the investigation as well. At DET's direction CS responded to the scene and photographed AP1 and the scene as well as collected the scissors as evidence. CSI O. Cardenas #9405 responded to University Hospital to photograph V1's injuries. Officer Christensen stood by until CS completed his processing of the scene and then turned the residence over to O1, V1's daughter, at V1's request.

UCR STATUS	UNFOUNDED ( ) REPORT	CLEARED BY (XX) ARREST	CLEARED BY ( ) JUVENILE ARREST	CLEARED BY EXCEPTION ( ) OR OTHER MEANS	CHANGE OF ( ) OFFENSE	PROGRESS OF ( ) INVESTIGATION
Officer Making Report (Badge No.) Det. J. Zuniga #2267			Approving Authority Sgt. J. Cline #3325		Unit Assigned to Follow-up Special Victims Unit	

SAN ANTONIO  
POLICE DEPARTMENT

TYPE ONLY

SUPPLEMENTARY REPORT

SAPD Form 3-L Rev. (9-90)

Document #

Cause NO. 2017-CR-3850

THE STATE OF TEXAS

VS.

Francisco Herrera

IN THE DISTRICT COURT

379<sup>th</sup> JUDICIAL DISTRICT

BEXAR COUNTY, TEXAS

---

MOTION FOR JACKSON V. DENNO HEARING TO DETERMINE

VOLUNTARINESS OF ANY ADMISSION OR CONFESSION WHETHER WRITTEN OR ORAL

---

TO THE HONORABLE JUDGE OF SAID COURT:

Come now Francisco Herrera Defendant in the above styled and numbered cause and requests the Court conduct a hearing prior to trial to determine the voluntariness of any admissions, be it written or oral, made at any time since Defendant's arrest, which is attributed to Defendant. In support of this motion Defendant would show the Court the following:

I.

Defendant makes this request based on the 5<sup>th</sup>, 6<sup>th</sup>, and 14<sup>th</sup> Amendments to the United States Constitution; Article 1, Sections 9 and 10 of the Texas Constitution; and Articles 38.21, 38.22 and 38.23 of the Texas Code of Criminal Procedure.

II.

Defendant alleges that at the time of various conversations with law enforcement officers, Defendant was either under arrest or substantially deprived of his freedom by the attendant conduct of the officers and surrounding circumstances.

WHEREFORE, PREMISES CONSIDERED, Defendant prays that a hearing be held on this motion. and that upon such hearing, this motion in all things be granted.

Respectfully submitted,

Francisco Herrera

\_\_\_\_\_  
Attorney for Defendant

\_\_\_\_\_  
Defendant



FILED  
DONNA J. HUNTER  
CLERK



NO. 2016CR6195

THE STATE OF TEXAS § IN THE DISTRICT COURT  
V. § 226TH JUDICIAL DISTRICT  
FRANCISCO R HERRERA § BEXAR COUNTY, TEXAS

**SUPPLEMENTAL STATE'S NOTICE OF INTENT TO INTRODUCE EVIDENCE OF  
EXTRANEOUS OFFENSES PURSUANT TO TEX. R. CRIM. EVID. 404(b),  
AND TEX. CODE CRIM. PROC. ART. 12.42, 38.37 AND 37.07**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES NICHOLAS LAHOOD, Criminal District Attorney of Bexar County, Texas by and through the undersigned Assistant Criminal District Attorney, and files this Notice of Intent to Introduce Evidence of Extraneous Offenses. The purpose of this notice is to give the Court and defense counsel notice of extraneous offenses for the purpose of punishment and to give notice for enhancement purposes. In support thereof the State would show the Court the following:

I.

The State hereby gives notice to the Court and to counsel for the defense, MIGUEL ANTONIO HERNANDEZ, that the State intends to offer evidence of other crimes, wrongs and acts in the case-in-chief at the Guilt/Innocence phase in the above numbered cause. This Notice is given pursuant to Rule 404(b), Texas Rules of Criminal Evidence and Art. 37.07(g) and 38.37, TEX. C.C.P., as amended effective Sept. 1, 1995.

II.

The State also gives notice to the Court and to counsel for the defense that the State intends to offer evidence of other crimes, wrongs and acts in the case-in-chief at the punishment phase in the above numbered case. This evidence is to be tendered pursuant to Article 37.07, Section 3(a)(g) of the Texas Code of Criminal Procedure, as amended effective September 1, 1989.



III.

The State specifically gives notice that upon a finding of guilt, at the punishment phase of the trial the State seeks to enhance the Defendant's punishment pursuant to Texas Penal Code Sec. 12.42.

IV.

Such other crimes, wrongs or acts that the State intends to introduce in its case in chief in the guilt phase and/or punishment phase are:

1) On September 1, 2016, the defendant wrote a sworn affidavit to the 226<sup>th</sup> District Court where he accuses the complainant, Guadalupe Gutierrez, of attacking him with scissors and that she is verbally and physically abusive. The defendant also swears that the complainant confessed to sexually abusing the defendant by slipping medication into his drink and using a personal vibrator to penetrate the defendant while unconscious. The defendant also swears that the complainant struck his genitals and that caused him to fall on the complainant and caused injury to the complainant. The defendant alleges that the complainant struck him with a vehicle 9 years ago; the complainant broke his phone 7 years ago, and attacked him 4 years ago.

V.

To the extent any additional wrongs or acts of Defendant not set out above or contained within the State's file become known, additional written notice will be given.

WHEREFORE, PREMISES CONSIDERED, the State of Texas requests that the Court allow in the State's case-in-chief and at the punishment phase all evidence of other crimes, wrongs, or acts as outlined in this motion.

Respectfully submitted,

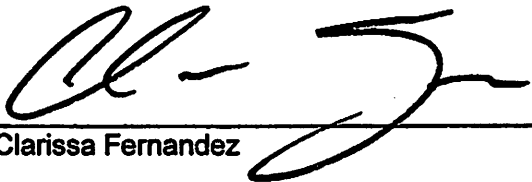


---

Clarissa Fernandez  
Assistant Criminal District Attorney  
State Bar No. 24068964

**CERTIFICATE OF SERVICE**

I, Clarissa Fernandez, Assistant Criminal District Attorney, Bexar County, Texas, do hereby certify that a true copy of the Notice of Intent to Introduce Evidence of Extraneous Offenses was delivered by emailed to MIGUEL ANTONIO HERNANDEZ, attorney of record for the Defendant, FRANCISCO R HERRERA, on January 25, 2017.

  
Clarissa Fernandez

Cause NO. 303812

THE STATE OF TEXAS

VS.

Francisco Herrera

IN THE DISTRICT COURT

D226 JUDICIAL DISTRICT

BEXAR COUNTY, TEXAS

## AFFIDAVIT

on or About the 15 Day of April 2016 Guadalupe Gutierrez she come from work around to 11:00 pm with three Girls named Lisa, mely and Cindy. I was at the House grinding down the sharp edges of the stairs so her Grandkids wouldn't get cut injured. When she was yelling at me saying "who gave you permission to do this fucking mess you son-of-A-Bitch" I did not Answer to her I just stayed Quiet Because I know she has disorder and maybe she didn't take her Pills. But Later on that night when the problem happened she started arguing with me and I told her I'm going to move out that's why you have 6 Divorces and your daughter Lupita can't even handle you. Also she's Guilty on the Separation and Destruction the my family Because she take but 3 years Ago at my wife and the 4 Kids Named Jennifer Abigail Herrera Frank Herrera 7 years Brandon Alexander Herrera 5 years and Jazuki Mary Herrera 3 years

Francisco Herrera

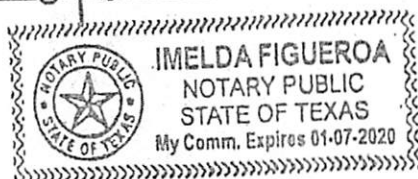
AFFIANT

STATE OF TEXAS \* \* \* \*

COUNTY OF BEXAR \* \* \* \*

ON THIS 1 DAY OF September, 2016, PERSONALLY  
 APPEARED BEFORE ME Francisco Herrera WHO  
 STATED UNDER OATH THAT THE ABOVE AND FOREGOING INFORMATION  
 CONTAINED IN THE AFFIDAVIT IS TRUE AND CORRECT.

SWORN TO AND SIGNED BEFORE ME ON THIS THE 1 DAY OF  
September, 2016.



[Signature]  
 NOTARY PUBLIC



Cause NO. 303812

THE STATE OF TEXAS

VS.

Francisco Herrera

IN THE DISTRICT COURT

D226 JUDICIAL DISTRICT

BEXAR COUNTY, TEXAS

Honorable District Attorney

I Was Arrest on 15 April 2016 for Aggravated Assault With Deadly Weapon  
 The Complainant in this Case is Guadalupe Gutierrez 439 Fresno 78212 On this Date I  
 informed Complainant that I Was Ending our relationship and Moving out Due to her emoti  
 nal and Physical Abuse. That is When Guadalupe Gutierrez attacked me With Scissor  
 Furthermore I testify that Lupe suffers from Mental Disorder and prescribed Severe  
 Medications, and Occasion when she forgets to take her Medication she Becomes Angry, Un  
 able and Abusive, both Verbally and physically. Her history of six Divorces Support the  
 statement that she is emotionally and mentally Unstable. Lupe had 16 days Before Confes  
 sed to me that she had been Sexually Abuse Violating me by first Putting me to sleep  
 by Slipping Medication in my Drink while I was Unaware and then Using her personal  
 vibrator to rape me anally while I was Unconscious. this was why I had been Sufferin  
 bleeding and Pain rectally that I previously Could not Understand Why. See in the Back  
 Please

Francisco Herrera

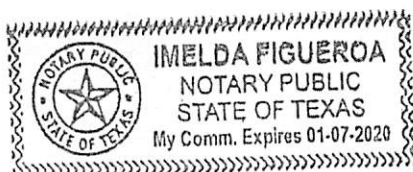
AFFIANT

STATE OF TEXAS \* \* \* \*

COUNTY OF BEXAR \* \* \* \*

ON THIS 16 DAY OF June 2016 PERSONALLY  
 APPEARED BEFORE ME Francisco Herrera WHO  
 STATED UNDER OATH THAT THE ABOVE AND FOREGOING INFORMATION  
 CONTAINED IN THE AFFIDAVIT IS TRUE AND CORRECT.

SWORN TO AND SIGNED BEFORE ME ON THIS THE 16 DAY OF  
June, 2016.



[Signature]  
 NOTARY PUBLIC



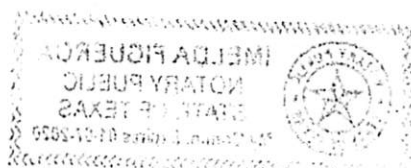
forced to live with her because My Single Apartment  
 was down in August 2015 I was ashamed and in constant fear of  
 against my life even threatening me with having her violent drug dealing  
 Hurt me or Kill me, so unfortunately because of this fear I had not made  
 any recent reports police on the Date in Question, in the process of defending my life  
 because of fearing for my life Complainant was Hurt. she had struck my Genitals -  
 with her knee Caused me to fall and so she also fell on sofa as she was attacking  
 me and so she fell on the scissors in causing the injury listed on police report  
 Guadalupe Gutierrez is the Abuser in our Relationship:

Years Ago she hit me with a Vehicle ~~and~~ and drove off this happened at the  
 Alebra Meat Market on Blanco and Fresno 7 year Ago when I going for my tools  
 her House she's Broken my Phone when call to Police Because she no bring want my tools  
 years Ago she attacked me while I was attempting to Golden Star Bar on Blanco and  
 Aldebrand. These are just a few occasions that have been reported to police. A simple  
 search under My Name Francisco Herrera will pull up listed Police reports where I  
 called to report her abusive behavior. Even so on 4/15/16 I placed the 911 call asking  
 for Ambulance to treat to Guadalupe Gutierrez this further proves that I had done  
 no wrong because I called Police and never attempted to flee which is consistent  
 with my statement of the facts. Please take my statement along with Corroborat-  
 ing Police Reports and if it please the Court Grant me Mercy and dismiss  
 his Case due to the Preponderance of Evidence.  
 this is why need Protective Order in jail! Best Regards

Thank you for your time

God Bless you!

I would like to know immediately put press charges  
 back and Arresting Because I Have Evidence with Blood



~~Francisco Herrera SID#506355~~

CASE#303812 COURT D226

AFFIDAVIT

Francisco Herrera Reyna

SID#506355

BC ADC, 200 N. Comal

San Antonio TX 78207

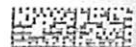
4<sup>th</sup> Floor AF12

Bexar County Criminal  
District Attorney  
101 W. Nueva, 4th Floor  
San Antonio, Texas 78205

*201/5*

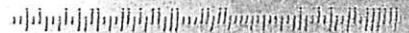
neopost<sup>TM</sup>  
10/31/2016  
US POSTAGE

FIRST-CLASS MAIL  
\$00.46



ZIP 78205  
041L 122020-4

7820533452 0011







## Texas Department of Criminal Justice

# STEP 1 OFFENDER GRIEVANCE FORM

## OFFICE USE ONLY

Grievance #: \_\_\_\_\_

Date Received: \_\_\_\_\_

Date Due: \_\_\_\_\_

Grievance Code: 704FC

Investigator ID #: \_\_\_\_\_

Extension Date: \_\_\_\_\_

Date Retd to Offender: \_\_\_\_\_

Offender Name: Herrera Francisco TDCJ # 2151663  
 Unit: Dal Hart Housing Assignment: B212B  
 Unit where incident occurred: Law Library on Dal Hart

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? Tammy Mustgrave When? 11/30/2021  
 What was their response? I'm Requesting Several times for Copys from My Record on Appeal  
 What action was taken? Discrimination She's Never help me Deprived all times of Copies

State your grievance in the space provided. Please state who, what, when, where and disciplinary case number if appropriate.

La Razon Que Estoy Reportando a Tammy Mustgrave Es porque tengo problemas en un I 60 desde 8/26/20 August 26 on 2020 Donde Dice? NOV 30 2021

The Law Library Does Not Make Copies or provide Copies for offenders. you have been told this Before of the Answer is NO, per Access to Courts in Huntsville. We Also do Not provide information in your Open Cases. NOV 30 2021

Tambien Quiero Reportar que Ella permite a las Presas que hablen y Hagan Demasiado Ruido Especialmente de 5:00 AM a 6 AM NOV 30 2021

En Agosto 20 del 2021 Mire y tengo a un trabajo que le gusta Hablar de Cosas Personales con las preso Hasta ese dia un Negro de la C. Le Agarro la Mano y nunca lo Reporto

en Julio 29 del 2021 Levanto El correo pip Ser la persona Autorizada y Me Dio una Carta por Contrabando NOV 30 2021

YOUR SIGNATURE IS REQUIRED ON BACK OF THIS FORM

(OVER)

Never Recib Answer from Huntsvill on Step 2

teniendo El sobre mi Informacion Completa y a donde yo  
 La Enviara Diciendo que voy a pagar Mandar Mas de 5  
 Cartas Por Mes Por Ser Indigente en ese tiempo ya que yo tenia  
 Dinero en transfer Unity y tenia Estampillas Cuandadas y la 7 eniente  
 Huirar me Diciplino por 5 Dias No comissaria NOV 30 2021

Action Requested to resolve your Complaint.

Que me Den Authorization for Copies porque tengo pensado  
 ya Meter un Civil Complaint y a que no me ya Habi Mandado otras  
 Grievance Step 1 Step 2 NOV 30 2021

Offender Signature: Francisco Herrera Date: Nov 30, 2021

Grievance Response:

Signature Authority: \_\_\_\_\_

Date: \_\_\_\_\_

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response.  
 State the reason for appeal on the Step 2 Form.

Returned because: \*Resubmit this form when corrections are made.

- ☒ 1. Grievable time period has expired.
- ☐ 2. Submission in excess of 1 every 7 days. \*
- ☐ 3. Originals not submitted. \*
- ☐ 4. Inappropriate/Excessive attachments. \*
- ☐ 5. No documented attempt at informal resolution. \*
- ☐ 6. No requested relief is stated. \*
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language. \*
- ☐ 8. The issue presented is not grievable.
- ☐ 9. Redundant, Refer to grievance # \_\_\_\_\_
- ☐ 10. Illegible/Incomprehensible. \*
- ☐ 11. Inappropriate. \*

UGI Printed Name/Signature: \_\_\_\_\_

Application of the screening criteria for this grievance is not expected to adversely  
 Affect the offender's health.

Medical Signature Authority: \_\_\_\_\_

#### OFFICE USE ONLY

Initial Submission UGI Initials: JL  
 Grievance #: 2020035010  
 Screening Criteria Used: #1 ba  
 Date Recd from Offender: NOV 30 2021  
 Date Returned to Offender: NOV 30 2021  
 2<sup>nd</sup> Submission UGI Initials: \_\_\_\_\_  
 Grievance #: \_\_\_\_\_  
 Screening Criteria Used: \_\_\_\_\_  
 Date Recd from Offender: 2  
 Date Returned to Offender: \_\_\_\_\_  
 3<sup>rd</sup> Submission UGI Initials: \_\_\_\_\_  
 Grievance #: \_\_\_\_\_  
 Screening Criteria Used: \_\_\_\_\_  
 Date Recd from Offender: \_\_\_\_\_  
 Date Returned to Offender: \_\_\_\_\_





## Texas Board of Criminal Justice

*The Office of the Independent Ombudsman, is committed to providing the public, elected or appointed state officials, and inmates a confidential avenue for complaint resolution by receiving, reviewing, investigating, and responding to inquiries regarding non-criminal matters within the Texas Department of Criminal Justice.*

Patrick L. O'Daniel  
Chairman

BA-12B

TO: Herrera, Francisco

TDCJ #: 02151663

UNIT: Dalhart

FROM: Office of the Independent Ombudsman

SUBJECT: Inmate Correspondence

Your correspondence has been received and reviewed by this office and a response is indicated below. Contact the warden, major, chief of classification, or a security officer for issues you deem as an emergency. If you need additional information or assistance, you may contact the Unit Grievance Investigator at your unit.

- ☐ Your correspondence was received at the Office of the Independent Ombudsman and has been forwarded to Unit Administration for further review.
- ☐ You must utilize the Offender Grievance Procedure to address your concerns. Use both steps of the grievance procedure in order to exhaust the administrative remedies available to you.
- ☐ Your Step 1 grievance(s) was properly screened.
- ☒ This issue is currently being addressed by unit officials. Grievance # 202114030 is under review at Step 1/Step 2.
- ☐ Records indicate that Step 1/Step 2 Grievance # \_\_\_\_\_ is closed.
- ☐ No other administrative remedies are available to you regarding the issue(s). The issue(s) has been reviewed at both Step 1 & Step 2 of the grievance procedure and does not rise to the level of further review.
- ☐ Records indicate that Grievance # \_\_\_\_\_ was returned to you on \_\_\_\_\_.
- ☐ This issue was addressed in grievance # \_\_\_\_\_.
- ☐ This issue(s) is outside the oversight of the Texas Department of Criminal Justice.
- ☐ See attachment of the appropriate department(s).



## Texas Department of Criminal Justice

# STEP 1 OFFENDER GRIEVANCE FORM

## OFFICE USE ONLY

Grievance #: 2021144030Date Received: AUG 02 2021Date Due: 9-11-21Grievance Code: 900Investigator ID #: 5768

Extension Date: \_\_\_\_\_

Date Retd to Offender: SEP 02 2021Offender Name: Herrera Francisco TDCJ # 2151663Unit: Dal Hart Housing Assignment: B101BB21215Unit where incident occurred: Indian Day Room in Dal Hart unit

You must try to resolve your problem with a staff member before you submit a formal complaint. The only exception is when appealing the results of a disciplinary hearing.

Who did you talk to (name, title)? Capitan Stone, Sgt. Velazquez, Lt Carranza When? 7/24/2021What was their response? investigationWhat action was taken? Lack down

State your grievance in the space provided. Please state who, what, when, where and the disciplinary case number if appropriate

en julio 24 del 2021 Shakur del T118 T pago y Ordeno a otro miembro de Black ganga Blood Southwest para que me Golpearan por Repetidas Veces con un Palo del Cepillo de Limpiar Showers quebrandome el palo en la Cabeza Cortandome la Oreja 3 Veces Asi tambien Golpeandome la Mano Cuando intente Cubrirme. Los Golpes Despues en el Medico La Capitana Stone, Sargent Velasquez y el teniente Carranza me tomaron fotos de los Múltiples Golpes y no Hicieron Nada en Contra de Shakur Siendo que el fue el que Empezo el problema por lo tanto si Ustedes No Le dan Causa por Ordenar y Ser Miembro de una Tanga tengo pensado en Meter el Step 2 o Mandar una Carta a Huntsville o Simple Mente Meter un Civil Complaint en Contra de Texas Department Criminal Justice for Discrimination si No Actuan en Contra de Shakur ya que tambien me perjudico el Radio Arranconome la Antena y quedandose con mi Cable y una Cosa Negra ya que El Dia del Incidente Estaba la Oficial Pears y miro Evango Southwest Quebraba el Cepillo para Golpearme sin Hacer Nada Hasta que me lo Quebra Repetidas Veces teniendo favoritismo a Favor de los Raza Negra Asi tambien es la Oficial Smith permitiendoles Estar Out the Place Nada mas Quiero que Cheguen Todas las Llamadas que Hace Shakur Cada dia Out the place y Van a ver que no Miento. Me Estoy preparando para Mandar una Carta Al Consulado Mexicano y un Civil Complaint Ante una Corte de aqui si NO Actuan en Contra de Shakur. Gracias y Dios los Bendiga.

Never Recib. Answer on Step 2

I-127 Front (Revised 11-2010)

YOUR SIGNATURE IS REQUIRED ON BACK OF THIS FORM

(OVER)

Francisco Herrera #2151663

Appendix F

Tambien el Medico Ese Dia No Me Dieron Medicamento  
para El Dolor ni me Ordenaron para Sacarme Rayos X  
de la Cabeza y Brazo y Mano sin Darne la Ayuda  
Necesaria

Disculpenme por las Molestias

Muchas Gracias y Dios los Bendiga

Action Requested to resolve your Complaint. Ponerle Causa a Shakur y Lack clow por  
Ser Miembro y Speaker de los Morenos y Ordenar y pagar lo que me hicieron  
Offender Signature: Francisco Herrera #2151663 Date: 7/26/2021

Grievance Response:

The issue raised within this grievance was processed in accordance with the Safe Prison Program. There was not any evidence found to support your claims nor that inmate Shakur paid or order another inmate to assault you. No further action is warranted.

Warden J. Marcum

Signature Authority: John Maron Date: AUG 27 2021

If you are dissatisfied with the Step 1 response, you may submit a Step 2 (I-128) to the Unit Grievance Investigator within 15 days from the date of the Step 1 response. State the reason for appeal on the Step 2 Form.

Returned because: \*Resubmit this form when the corrections are made.

- ☐ 1. Grievable time period has expired.
- ☐ 2. Submission in excess of 1 every 7 days. \*
- ☐ 3. Originals not submitted. \*
- ☐ 4. Inappropriate/Excessive attachments. \*
- ☐ 5. No documented attempt at informal resolution. \*
- ☐ 6. No requested relief is stated. \*
- ☐ 7. Malicious use of vulgar, indecent, or physically threatening language. \*
- ☐ 8. The issue presented is not grievable.
- ☐ 9. Redundant, Refer to grievance # \_\_\_\_\_
- ☐ 10. Illegible/Incomprehensible. \*
- ☐ 11. Inappropriate. \*

UGI Printed Name/Signature: \_\_\_\_\_

Application of the screening criteria for this grievance is not expected to adversely affect the offender's health.

Medical Signature Authority: \_\_\_\_\_

I-127 Back (Revised 11-2010)

### OFFICE USE ONLY

Initial Submission	UGI Initials: _____
Grievance #: _____	
Screening Criteria Used: _____	
Date Recd from Offender: _____	
Date Returned to Offender: _____	
2 <sup>nd</sup> Submission	UGI Initials: _____
Grievance #: _____	
Screening Criteria Used: _____	
Date Recd from Offender: _____	
Date Returned to Offender: _____	
3 <sup>rd</sup> Submission	UGI Initials: _____
Grievance #: _____	
Screening Criteria Used: _____	
Date Recd from Offender: _____	
Date Returned to Offender: _____	

TEXAS DEPARTMENT OF CRIMINAL JUSTICE — INSTITUTIONAL DIVISION

**INMATE REQUEST TO OFFICIAL**

REASON FOR REQUEST: (Please check one)

**PLEASE ABIDE BY THE FOLLOWING CHANNELS OF COMMUNICATION. THIS WILL SAVE TIME; GET YOUR REQUEST TO THE PROPER PERSON, AND GET AN ANSWER TO YOU MORE QUICKLY.**

- |  |  |
|--|--|
| 1. <input checked="" type="checkbox"/> Unit Assignment, Transfer (Chairman of Classification, Administration Building)   | 5. <input checked="" type="checkbox"/> Visiting List (Asst. Director of classification, Administration Building)   |
| 2. <input checked="" type="checkbox"/> Restoration of Lost overtime (Unit Warden-if approved, it will be forwarded to the State Disciplinary Committee)                    | 6. <input checked="" type="checkbox"/> Parole requirements and related information (Unit Parole Counselor)   |
| 3. <input checked="" type="checkbox"/> Request for Promotion in Class or to Trusty Class (Unit Warden- if approved, will be forwarded to the Director of Classification)   | 7. <input checked="" type="checkbox"/> Inmate Prison Record (Request for copy of record, information on parole eligibility, discharge date, detainers-Unit Administration) |
| 4. <input checked="" type="checkbox"/> Clemency-Pardon, parole, early out-mandatory supervision (Board of Pardons and Paroles, 8610 Shoal Creek Blvd. Austin, Texas 78757) | 8. <input checked="" type="checkbox"/> Personal Interview with a representative of an outside agency (Treatment Division, Administration Building)                         |

TO:

Law Library

(Name and title of official)

DATE:

8/26/2020

ADDRESS:

11950 FM998 Dal Hart TX 79022



SUBJECT: State briefly the problem on which you desire assistance.

Can I Have Please 4 Copies from my Record Because I Need Send to 4 Court of Appeals, Bexar District Clerks, Bexar District Attorneys And State Bar Association for Action Disciplinary to My Ex Attorney please? #32 INMATE Copy on April 2020.

Also: Can you Check my transfer to Appeal Pleas 2017 CR 3850 Cause NO. APPEAL 04-17-00541 CR on 12/17/18 in Access please?

Thank you Officer And GOD BLESS YOU!

Name: Herrera Francisco No: 2151663 Unit: Dal Hart  
Living Quarters: I2-09B Work Assignment: Janitor Norm 3rd 22.00 to 6.00 <sup>Hrs</sup> off Fri-Sat

DISPOSITION: (Inmate will not write in this space)

→ The Law Library does not make copies or provide copies for offenders. You have been told this before & the answer is NO per Access to Courts in Huntsville. We also do not provide information on your open cases. The only thing I can verify is if you have an active case. And will need the County the case is at or court the case is at. *Illustrative*